

State of South Dakota

EIGHTY-FIFTH SESSION
LEGISLATIVE ASSEMBLY, 2010

400R0248

CONFERENCE COMMITTEE ENGROSSED NO. **HB 1014** - 3/1/2010

Introduced by: The Committee on Agriculture and Natural Resources at the request of the
Department of Game, Fish and Parks

1 FOR AN ACT ENTITLED, An Act to define trophy and nontrophy antelope, mule deer, white-
2 tailed deer, and elk, and establish civil damages for the unlawful taking of trophy animals.

3 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF SOUTH DAKOTA:

4 Section 1. That chapter 41-1 be amended by adding thereto a NEW SECTION to read as
5 follows:

6 Terms, as used in this Act, mean:

7 (1) "Trophy antelope," any antelope with at least one horn greater than fifteen inches in
8 length, as measured along the outside curve from base to tip;

9 (2) "Trophy mule deer," any mule deer having a Boone and Crockett gross score of one
10 hundred sixty points or greater;

11 (3) "Trophy white-tailed deer," any white-tailed deer having a Boone and Crockett gross
12 score of one hundred forty points or greater; and

13 (4) "Trophy elk," any elk having a Boone and Crockett gross score of three hundred ten
14 points or greater.



1 The Boone and Crockett score shall be determined using the Boone and Crockett Club's
2 official scoring system for North American big game trophies as provided in Records of North
3 American Big Game, 12th Edition, The Boone & Crockett Club, Missoula, MT, 2005. For
4 purposes of this section, antlers or skulls may be measured at any time; no drying period is
5 required.

6 Section 2. That chapter 41-1 be amended by adding thereto a NEW SECTION to read as
7 follows:

8 For purposes of this Act, any antelope, mule deer, white-tailed deer, or elk not defined as
9 a trophy is considered nontrophy.

10 Section 3. That § 41-1-5.1 be amended to read as follows:

11 41-1-5.1. Any person, other than a minor under the age of sixteen years, who willfully and
12 unlawfully kills, destroys, takes, or possesses in this state any wild animal designated by this
13 section:

14 (1) Without an applicable and valid big game or small game license; ~~or~~

15 (2) At a time or place when and where taking or possession of such regulated wild
16 animal is prohibited; ~~or~~

17 (3) In excess of the legal limit of big game if exceeded by one or more; or

18 (4) In excess of the legal daily or possession limit of small game bird or fish if exceeded
19 by two or more;

20 is liable to the state for civil damages.

21 The civil damages are five thousand dollars for each nontrophy elk, mountain lion, or
22 buffalo; ten thousand dollars for each mountain goat or mountain sheep; one thousand dollars
23 for each nontrophy mule deer, nontrophy white-tailed deer, nontrophy antelope, or bobcat; two
24 hundred dollars for each turkey; two hundred dollars for each paddlefish; one hundred dollars

1 for each small game bird; and fifty dollars for each fish for any species, other than paddlefish,
2 with an established daily limit of less than twenty-five. The civil damages for each trophy
3 antelope, trophy mule deer, and trophy white-tailed deer as defined in section 1 of this Act may
4 not be less than two thousand dollars and may not exceed five thousand dollars, and the civil
5 damages for each trophy elk as defined in section 1 of this Act may not be less than six thousand
6 dollars and may not exceed ten thousand dollars.

7 If a person has taken or is in possession of more than two times the lawful daily or
8 possession limit of a regulated wild animal, such person is liable for twice the damages provided
9 in this section.

10 However, the return uninjured of the wild animal to the place where captured, or to such
11 other place as the Department of Game, Fish and Parks may direct, constitutes a discharge of
12 such damages. Moreover, the provisions of this section do not apply to any person, who, after
13 providing written notice received by the Department of Game, Fish and Parks, forty-eight hours
14 in advance, takes reasonable actions to protect the person's land, livestock, or crops from serious
15 and extraordinary damages caused by elk, deer, antelope, wild turkey, or mountain lion. Nothing
16 in this section or any other provision of law prevents any person from taking any action
17 necessary to protect the personal safety of that person or any other person who is in immediate
18 danger of harm from a mountain lion or other animal specified in this section.

19 Section 4. That § 41-1-5.2 be amended to read as follows:

20 41-1-5.2. The liquidated damages provided for in this chapter and taxable costs may be
21 collected by the Department of Game, Fish and Parks in a civil suit brought by it, in the name
22 of the State of South Dakota, against the person claimed to be liable therefor. Conviction of a
23 criminal offense for the same incident leading to the charges specified in § 41-1-5.1 is prima
24 facie evidence of the defendant's civil liability. Failure to obtain conviction on a criminal charge

1 is not a bar to a separate civil action for such liquidated damages.

2 The department, collecting such liquidated damages and taxable costs for wild animals other
3 than trophy antelope, trophy mule deer, trophy white-tailed deer, and trophy elk as defined in
4 section 1 of this Act, shall deposit them in the Department of Game, Fish and Parks fund. Any
5 other public agency or department of the state, collecting liquidated damages and taxable costs
6 for wild animals other than trophy antelope, trophy mule deer, trophy white-tailed deer, and
7 trophy elk as defined by section 1 of this Act, shall remit the moneys collected, less the agreed
8 collection fee, to the state treasurer who shall deposit them in the Department of Game, Fish and
9 Parks fund.

10 From the civil damages collected for each trophy antelope, trophy mule deer, trophy white-
11 tailed deer, and trophy elk as defined in section 1 of this Act, an amount equal to the liquidated
12 damages for a nontrophy antelope, nontrophy mule deer, nontrophy white-tailed deer, or
13 nontrophy elk as defined in section 2 of this Act, as the case may be, shall be deposited in the
14 Game, Fish and Parks fund with the excess to be deposited in the general fund of the school
15 district in which the trophy animal was illegally taken.

16 The judgment and liquidated damages may be collected by an agent. Fees to agents
17 authorized to collect on a judgment under this section may not exceed fifty percent of the total
18 amount collected. With approval of the department, agreed collection fees may be deducted
19 from the moneys collected when remitted or may be paid on warrants drawn by the state auditor
20 on itemized vouchers approved by the secretary of game, fish and parks and submitted
21 simultaneously with the moneys collected.